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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,474	03/01/2002	William A. White	SAA-81	2115
23569	7590	12/21/2005	EXAMINER	
SQUARE D COMPANY LEGAL DEPARTMENT IP SECTION 1415 SOUTH ROSELLE ROAD PALATINE, IL 60067			LIN, KENNY S	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/086,474	WHITE, WILLIAM A.	
	Examiner	Art Unit	
	Kenny Lin	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-29 are presented for examination.

Response to Amendment

2. The affidavit filed on 10/14/2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the Liao, US 2003/0108043, reference.

3. **37 CFR 1.131 (b)** stated that:

The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application. Original exhibits of drawings or records, or photocopies thereof, must accompany and form part of the affidavit or declaration or their absence must be satisfactorily explained.

4. **MPEP 715.02** further stated that:

The 37 CFR 1.131 affidavit or declaration must establish possession of either the whole invention claimed or something falling within the claim (such as a species of a claimed genus), in the sense that the claim as a whole reads on it.

5. **MPEP 715.07** stated that:

Exhibits and models must comply with the requirements of 37 CFR 1.91 to be entered into an application file. See also MPEP § 715.07(d). A general allegation that the invention was completed prior to the date of the reference is not sufficient. Ex parte Saunders, 1883 C.D. 23, 23 O.G. 1224 (Comm'r Pat. 1883). Similarly, a declaration by the inventor to the effect that his or her invention was conceived or reduced to practice prior to the reference date, without a statement of facts demonstrating the correctness of this conclusion, is insufficient to satisfy 37 CFR 1.131. 37 CFR 1.131(b) requires that original exhibits of drawings or records, or photocopies thereof, accompany and form part of the affidavit or declaration or their absence satisfactorily explained.

* * *

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The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice “amounts essentially to mere pleading, unsupported by proof or a showing of facts” and, thus, does not satisfy the requirements of 37 CFR 1.131(b). *In re Borkowski*, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184 USPQ at 33. See also *In re Harry*, 333 F.2d 920, 142 USPQ 164 (CCPA 1964) (Affidavit “asserts that facts exist but does not tell what they are or when they occurred.”).

6. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Liao reference to either a constructive reduction to practice or an actual reduction to practice. Although the applicant stated and relied upon Exhibit A to show the conception of the claimed invention, Exhibit A is not submitted and therefore do not establish diligence from a date prior to the date of reduction to practice of the Liao reference. No evidence of conception is provided to support the applicant’s statement of the date of conception as early as late 2000. Applicant’s diligence from the date of late 2000 to the date of conception of the Liao reference is not shown. Applicant has not met the burden of showing prior invention.

7. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Liao reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). Although the applicant stated and relied upon Exhibit A to show the conception of the claimed invention, Exhibit A is not submitted and

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therefore prior date of conception of the invention to the effective date of the Liao reference is not shown.

8. The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the Liao reference. The affidavit does not show or stated earlier reduction to practice of the invention prior to the effective date of the Liao reference.

Allowable Subject Matter

9. Claims 4, 8-23 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-2, 5-7, 24-25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liao, US 2003/0108043, in view of Walsh et al, US 2003/0135636.

12. Liao and Walsh were cited in the previous office action.

13. As per claim 1, Liao taught the invention substantially as claimed including a method for optimizing communication in a network, the communication involving wanted and unwanted network messages, each message having a message identifier, wherein a set of filters are configured to accept all wanted network messages and minimize the acceptance of unwanted messages in accordance with a selection criteria, the method comprising the steps of:

- a. Configuring a first filter to receive all wanted messages, based on a message identifier (e.g. filter bit patterns), the first filter comprising a defined bit and an undefined bit (e.g. element bits), each defined bit being either in a first state or in a second state (pp. 0003-0004, 0011, 0034, 0037-0043, 0055, 0072);
- b. Setting a filter sets for filtering (pp. 0056);
- c. Determining potential configurations of the first set of filters wherein each potential configuration of the first set of filters is capable of accepting all wanted network messages (pp. 0073);
- d. Optimizing each potential configuration of the first set of filters (pp. 0072-0077);
and
- e. Accepting wanted messages according to the optimized configuration (abstract, pp. 0035, 0076-0077; filtering out the unwanted messages).

14. Liao further taught to use multiple classifier elements operating in parallel for handling multiple filter bit patterns (pp. 0033). Liao did not specifically teach to set a second filter equal

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to the first filter. Walsh taught to use multiple identical filters for filtering at different time frame (pp. 0024). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Liao and Walsh because Walsh's teaching of using identical filters to enables Liao's method to filter messages at different time frame (see Walsh, pp. 0024).

15. As per claim 2, Liao and Walsh taught the invention substantially as claimed in claim 1. Liao further taught to select an optimum configuration of the first set of filters in response to a selection criteria (pp. 0072-0074), the optimum configuration of the first set of filters being selected from the potential configurations of the first set of filters (pp. 0072-0077).

16. As per claim 5, Liao and Walsh taught the invention substantially as claimed in claim 1. Liao further taught to include the step of initializing the first filter with one of the wanted network messages (pp. 0070).

17. As per claim 6, Liao and Walsh taught the invention substantially as claimed in claim 2. Liao further taught that the selection criteria includes minimizing the amount of unwanted messages passing through the first set of filters (pp. 0033-0034, 0064).

18. As per claim 7, Liao and Walsh taught the invention substantially as claimed in claim 6. Liao further taught that the selection criteria includes prioritizing the filtering to reject a specific unwanted messages (pp. 0067-0069).

19. As per claim 24, a computer readable medium for optimizing communication in a network, the communication involving wanted and unwanted network messages, each message having a message identifier, wherein a set of filters are configured to accept all wanted network messages and minimize the acceptance of unwanted messages in accordance with a selection criteria, the computer readable medium comprising:

- a. A first segment for configuring a first filter to receive all wanted messages, the first filter comprising a defined bit and an undefined bit, each defined bit being either in a first state or in a second state (pp. 0003-0004, 0011, 0034, 0037-0043, 0055, 0072);
- b. A second segment for setting a filter sets for filtering (pp. 0056);
- c. A third segment for determining potential configurations of the first set of filters wherein each potential configuration of the first set of filters is capable of accepting all wanted network messages (pp. 0073);
- d. A fourth segment for optimizing each potential configuration of the first set of filter (pp. 0072-0077); and
- e. A fifth segment for accepting wanted messages according to the optimized configuration (abstract, pp. 0035, 0076-0077; filtering out the unwanted messages).

20. Liao further taught to use multiple classifier elements operating in parallel for handling multiple filter bit patterns (pp. 0033). Liao did not specifically teach to set a second filter equal

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to the first filter. Walsh taught to use multiple identical filters for filtering at different time frame (pp. 0024). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Liao and Walsh because Walsh's teaching of using identical filters to enables Liao's method to filter messages at different time frame (see Walsh, pp. 0024).

21. As per claim 25, Liao and Walsh taught the invention substantially as claimed in claim

24. Liao further taught a fifth segment for selecting an optimum configuration of the first set of filters in response to a selection criteria, the optimum configuration of the first set of filters being selected from the potential configurations of the first set of filters (pp. 0072-0077).

22. As per claim 28, Liao and Walsh taught the invention substantially as claimed in claim

24. Liao further taught that the selection criteria includes minimizing the amount of unwanted messages passing through the first set of filters (pp. 0033-0034, 0064).

23. Claims 3, 26 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liao and Walsh as applied to claims 1 and 24 above, and further in view of Rajski, US 6,662,327.

24. Rajski was cited in the previous office action.

25. As per claim 3, Liao and Walsh taught the invention substantially as claimed in claim 1.

Liao further taught to determine potential configurations of the first set of filters comprises the

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steps of: setting an undefined bit of the first filter to the first state (pp. 0073; P); continuing to set remaining undefined bits for the first until each undefined bit of the first filter have been correspondingly defined wherein a determined potential configurations of the first set of filters exists for each initially undefined bit (pp. 0073; P). Liao and Walsh did not specifically teach to set the corresponding undefined bit of the second filter to the second state. Rajski taught that undefined bits can be set to either 0 or 1 (col.11, lines 65-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Liao, Walsh and Rajski and using the teachings of Rajski to set the undefined bit to either 0 or 1 as desired in Liao and Walsh's method.

26. As per claim 26, Liao and Walsh taught the invention substantially as claimed in claim 24. Liao further taught that determining potential configurations of the first set of filters comprises the steps of: a sixth segment for setting an undefined bit of the first filter to the first state (pp. 0073; P); and, an eighth segment for continuing to define remaining undefined bits for the first filter in like manner until each undefined bit of the first filter has been correspondingly defined wherein a determined potential configuration of the first set of filters exists for each initially undefined bit (pp. 0073; P). Liao and Walsh did not specifically teach a seventh segment for setting the corresponding undefined bit of the second filter to the second state. Rajski taught that undefined bits can be set to either 0 or 1 (col.11, lines 65-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Liao, Walsh and Rajski and using the teachings of Rajski to set the undefined bit to either 0 or 1 as desired in Liao and Walsh's method.

27. As per claim 29, Liao, Walsh and Rajski taught the invention substantially as claimed in claim 26. Liao further taught that the selection criteria includes prioritizing the filtering to reject a specific unwanted message (pp. 0067-0069).

Conclusion

28. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenny Lin whose telephone number is (571) 272-3968. The examiner can normally be reached on 8 AM to 5 PM Tue.-Fri. and every other Monday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksl
December 15, 2005


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